



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 26, 1996

Mr. Alberto J. Pena
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR96-0091

Dear Mr. Pena:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 37358.

The City of San Antonio received a request for five items of information concerning a certain traffic accident. You say the city will release to the requestor items one and two, the 911 and dispatch tapes, as well as the peace officer's accident report. However, you say the city seeks to withhold from required public disclosure the following requested information based on sections 552.101, 552.103, and 552.108 of the Government Code: mobile digital terminal tapes of the accident, San Antonio Police Department investigation documents, San Antonio Police Department reports, and a video tape of the scene of the accident made by the traffic investigations unit investigator.

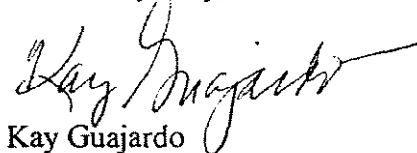
Section 552.101 of the Government Code excepts from required public disclosure information that is confidential by law, including information made confidential by statute. You state that the requested information is maintained by the city's police department. Section 143.089(g) of the Local Government Code provides as follows:

A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use, but the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

The requested information appears to be part of a departmental file the San Antonio Police Department maintains pursuant to section 143.089(g). *See Open Records Decision No. 562 (1990)*. Section 143.089(g) forbids the release of the information. *See City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946 (Tex. App.--Austin 1993, writ denied).¹ Consequently, we conclude that the requested information is excepted from required public disclosure based on section 552.101 of the Government Code.

Having concluded that the department must withhold the requested information from disclosure under section 552.101 of the Government Code, we need not consider your claims under sections 552.103 and 552.108. We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/ch

Ref.: ID# 37358

Enclosures: Submitted documents

cc: Mr. Philip Bozzo, Jr.
Attorney at Law
405 South Presa
San Antonio, Texas 78205
(w/o enclosures)

¹Should the investigation result in disciplinary action of the officer involved in the accident, the police department is required by section 143.089(a)(2) to transfer records relating to the investigation and disciplinary action to the city civil service commission. The city may not withhold such records from disclosure under section 552.101 of the Government Code. *See City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946 (Tex. App.--Austin 1993, writ denied). Information in a police officer's civil service personnel file can be withheld from disclosure if it falls within an exception to disclosure in chapter 552 of the Government Code. *See Open Records Decision No. 562 (1990)*.